



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
[www.newtonma.gov](http://www.newtonma.gov)

Candace Havens  
Director

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**MEMORANDUM**

|                                |                    |
|--------------------------------|--------------------|
| Public Hearing Date:           | July 12, 2011      |
| Land Use Action Date:          | August 16, 2011    |
| Board of Aldermen Action Date: | September 6, 2011  |
| 90-Day Expiration Date:        | September 10, 2011 |

DATE: July 8, 2011

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development  
Eve Tapper, Chief Planner for Current Planning ET  
Alexandra Ananth, Senior Planner

SUBJECT: **Petition #195-11** Vikram Narasimhan & Mary V. Doyle petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to extend a NONCONFORMING STRUCTURE by adding an addition of approximately 1300 square feet to the rear of an existing single-family residence at **343 OTIS STREET**, Ward 3, West Newton, on land known as SBL 32, 3, 14, containing approximately 18,630 sq ft of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(b) of the City of Newton Rev Zoning Ord, 2007.

CC: Mayor Setti D. Warren

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The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



### **EXECUTIVE SUMMARY**

The subject property consists of an 18,630 square foot lot improved with a single-family Victorian-style residence listed on the National Register of Historic Places. The existing residence is a legally nonconforming 3½-story structure as the ground floor is more than fifty percent above grade and counts as a full story. The petitioner is proposing to add an approximately 1,300 square foot 3-story addition to the rear of the building. The addition will contain a new attached two-car garage at the ground level, with two stories of living space above. The proposed addition will be 28.8 feet in height, compliant with the 30 foot maximum height allowed. However, due to the ground floor garage being more than fifty percent above grade, the addition is considered three stories for which the petitioners must seek special permit relief.

The petitioners are also proposing to remove the existing single-bay garage on the west property line and remove the existing curb cut. A new curb cut will be located on the east side of the property to provide access to the new garage.

Although in keeping with the architecture of the house, the petitioner's proposed addition is considered three stories and thus nonconforming, and as such the petitioner must seek a special permit to extend a nonconforming structure with regard to number of stories. All other aspects of the proposed project are compliant with zoning requirements. The Newton Historical Commission has approved the proposed project based on plans submitted.

It should be noted that the petitioners have begun execution of a by right building addition and interior renovation for which they have received a building permit. However, the proposed project is the petitioner's preferred option if this petition is approved by the Board.

#### **I. SIGNIFICANT ISSUES FOR CONSIDERATION**

When considering this request, the Board should consider whether the extension of this nonconforming structure with regard to the number of stories, will be substantially more detrimental to the neighborhood than the existing structure.

#### **II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD**

##### **A. Neighborhood and Zoning**

The property is located in West Newton Hill, on the north side of Otis Street, in the West Newton Hill National Register Historic District. It is located within a Single-Residence 2 zoning district where older single-family residences on generous-sized lots characterize the neighborhood. A Single-Residence 1 district begins on the south side of Otis Street.

B. Site

The 18,630 square foot site is currently improved with a single-family residence and detached single-bay garage. The site slopes down towards the rear of the property and away from the street.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

No changes to the use of the single-family residence are proposed.

B. Building and Site Design

The petitioner is proposing to add an approximately 1,300 square foot, three-story addition to the rear of the building. The proposed addition appears to be in keeping with the scale and height of the house and materials will match existing. The addition will house a two-car garage on the ground floor, an expanded kitchen, family room and screen porch and deck on the first floor, and a master bedroom suite on the second floor. The proposed addition will be 28.8 feet in height, compliant with the 30 foot maximum height allowed. However, due to the ground floor garage being more than fifty percent above grade, the addition is considered three stories for which they must seek special permit relief.

C. Parking and Circulation

The petitioners are proposing to remove the existing one-bay garage on the western property line and to add an attached two-car garage on the east side of the house, with living space above. The petitioners will remove the existing driveway and close the curb cut and are proposing a new driveway and curb cut on the eastern side of the house. The Planning Department has no concerns with the proposed new driveway location.

D. Landscape Screening

The petitioners are not proposing any additional landscaping as part of this special permit.

IV. TECHNICAL REVIEW

A. Technical Considerations. The Zoning Review Memorandum, dated May 19, 2011 (**SEE ATTACHMENT "A"**), provides an analysis of the proposal with regards to zoning. The existing house is a lawfully nonconforming structure with regard to the number of stories. The petitioner's proposed addition represents an extension of a nonconformity with respect to the number of stories. The existing structure is 3½-stories where 2½-stories are allowed. The proposed addition is three stories, which is still nonconforming. To construct the proposed addition as shown, the

petitioners must obtain a special permit from the Board of Aldermen to extend a nonconforming structure with regard to the number of stories. All other aspect of the house will remain in compliance with zoning.

- B. Newton Historical Commission Demolition Review. The Commission waived the demolition delay on March 9, 2011, based on submitted plans (**SEE ATTACHMENT "B"**).
- C. Engineering Division Review. The Associate City Engineer reviewed this project. He notes a number is issues that will need to be resolved prior to the issuance of a building permit (**SEE ATTACHMENT "C"**).

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum the petitioners are seeking approval through or relief from:

- Section 30-21(b), for the extension of a nonconforming structure with regard to number of stories
- Section 30-23, for site plan approval
- Section 30-24, for approval of special permits

VI. PETITIONERS' RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS**

- ATTACHMENT A:** ZONING REVIEW MEMORANDUM DATED MAY 19, 2011
- ATTACHMENT B:** DEMOLITION REVIEW DECISION DATED MARCH 9, 2011
- ATTACHMENT C:** ENGINEERING DIVISION MEMORANDUM DATED JUNE 24, 2011
- ATTACHMENT D:** ZONING MAP
- ATTACHMENT E:** LAND USE MAP
- ATTACHMENT F:** DRAFT BOARD ORDER



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Candace Havens  
Director

## ZONING REVIEW MEMORANDUM

Date: May 19, 2011

To: John Lojek, Commissioner of Inspectional Services

Fr: Seth Zeren, Chief Zoning Code Official  
Eve Tapper, Chief Planner for Current Planning ET

Cc: Stephen Buchbinder, attorney representing applicant  
Candace Havens, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: Request to allow an extension of a nonconforming structure

| Applicant: Vikram Narasimhan and Mary V. Doyle |                                       |
|--|---------------------------------------|
| Site: 343 Otis Street                          | SBL: 32003 0014                       |
| Zoning: SR2                                    | Lot Area: 18,630 square feet          |
| Current use: Single-family residence           | Proposed use: Single-family residence |

### Background:

The property at 343 Otis Street consists of an 18,630 square foot lot improved with a single-family residence. The existing building qualifies as a three-and-a-half-story structure as the ground floor is more than fifty percent above grade plane and therefore counts as a full story. The applicant proposes to add an approximately 1,300 square foot, three-story addition to the rear of the building.

The following review is based on plans and materials submitted to date as noted below.

- Architectural plans, signed and stamped by Jan Gleysteen, dated 3/3/11
  - A-1: Layout Plan
  - A-2: Exterior Elevations
  - A-3: Exterior Elevations
  - A-4: Basement Plan
  - A-5: First Floor Plan
  - A-6: Second Floor Plan
- Site plan, signed and stamped by Bruce Bradford, Surveyor, dated 3/22/11

- Revised Site Plan with corrected grade plane calculations, signed and stamped by Bruce Bradford, Surveyor, dated 5/10/11

#### ADMINISTRATIVE DETERMINATIONS:

1. The property is in the SR2 zone and must comply with the dimensional standards of Section 30-15, Table 1 for a pre-1953 lot (see chart below).

| SR2 Zone   | Required/Allowed               | Existing                            | Proposed                            |
|--|--------------------------------|-------------------------------------|-------------------------------------|
| Lot Size   | 10,000 square feet             | 18,630 square feet                  | No change                           |
| Frontage   | 80 feet                        | 100 feet                            | No change                           |
| Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul> | 25 feet<br>7.5 feet<br>15 feet | 29.6 feet<br>20.6 feet<br>71.3 feet | No change<br>No change<br>65.0 feet |
| FAR  | .37*                           | .24                                 | .31                                 |
| Building Height  | 30 feet                        | <b>33.9 feet</b>                    | <b>No change**</b>                  |
| Maximum Stories  | 2.5                            | <b>3.5</b>                          | <b>No change</b>                    |
| Max. Lot Coverage  | 30%                            | 11.7%                               | 14.4%                               |
| Min. Open Space  | 50%                            | 81%                                 | 75%                                 |

\* The property qualifies for a .07 bonus to FAR because the proposal is an addition to an existing structure over ten years old on pre-1953 lot (+.05) and the proposal fits within the post-1953 lot setbacks (+.02).

\*\* The existing house is nonconforming with regard to height; the plans show the height of the addition as 28.8 feet, which conforms to the height limit.

2. The applicant's proposed addition represents an extension of a nonconformity with respect to the number of stories. The existing structure is three-and-a-half stories where two-and-a-half stories are allowed; the proposed addition is three stories, which is still nonconforming. To construct the proposed plan as shown, the applicant must obtain a special permit from the Board of Aldermen per Section 30-21(b) of the Newton Zoning Ordinance to extend a nonconforming structure.
3. See "Zoning Relief Summary" below:

| Zoning Relief Required |   |                        |
|------------------------|---|------------------------|
| <i>Ordinance</i>       | <i>Structure</i>  | <i>Action Required</i> |
| §30-21(b)              | Extension of a nonconforming structure with regard to number of stories | S.P. per §30-24        |



# CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

Setti D. Warren  
Mayor

ATTACHMENT B

Telephone  
(617)-796-1120

Telefax  
(617) 796-1142

E-mail  
blever@newtonma.gov

## Newton Historical Commission Demolition Review Decision

Date: 3/9/11

Zoning & Dev. Review Project# 11030009

Address of structure: 343 Otis Street

Type of building : House

If partial demolition, feature to be demolished is \_\_\_\_\_

The building or structure:

is ☒ is not \_\_\_\_\_ in a National Register or local historic district not visible from a public way.  
is ☒ is not \_\_\_\_\_ on the National Register or eligible for listing.  
is ☒ is not \_\_\_\_\_ importantly associated with historic person(s), events, or architectural or social history  
is ☒ is not \_\_\_\_\_ historically or architecturally important for period, style, architect, builder, or context.  
is \_\_\_\_\_ is not ☒ located within 150 feet of a historic district and contextually similar.

is \_\_\_\_\_ NOT HISTORIC as defined by the Newton Demolition Delay Ordinance.

Demolition is not delayed and no further review is required.

is ☒ HISTORIC as defined by the Newton Demolition Delay Ordinance (See below).

The Newton Historical Commission staff:

☒ APPROVES the proposed project based upon materials submitted see below for conditions (if any).

Demolition is not delayed, further staff review may be required.

Final plan sign  
off required

\_\_\_\_\_ DOES NOT APPROVE and the project requires Newton Historical Commission review (See below).

The Newton Historical Commission finds the building or structure:

is \_\_\_\_\_ NOT PREFERABLY PRESERVED

Demolition is not delayed and no further review is required.

is \_\_\_\_\_ PREFERABLY PRESERVED - (SEE BELOW).

One year delay of Demolition:

\_\_\_\_\_ is in effect until \_\_\_\_\_

\_\_\_\_\_ has been waived - see attached for conditions

Determination made by:

Brian Lever

Please Note: if demolition does not occur within two years of the date of expiration of the demolition delay, the demolition will require a resubmittal to the Historical Commission for review and may result in another demolition delay.

**CITY OF NEWTON  
ENGINEERING DIVISION**

**MEMORANDUM**

To: Alderman Ted Hess-Mahan, Land Use Committee Chairman

From: John Daghljan, Associate City Engineer

Re: Special Permit – #343 Otis Street

Date: June 24, 2011

CC: Lou Taverna, PE City Engineer (via email)  
Linda Finucane, Associate City Clerk (via email)  
Eve Tapper, Chief Planner (via email)  
Derek Valentine, Planner (via email)

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In reference to the above site, I have the following comments for a plan entitled:

*#343 Otis Street  
Site Plan of Land in  
Newton, MA  
Prepared by: Everett M. Brooks Company  
Dated: March 4, 2011  
Revised: 3/17/11  
3/28/11  
5/10/11*

**Drainage:**

1. The engineer of record has design an infiltration system the will be partially submerged in the groundwater. Proposed System #2 has a finished grade of 145.5 feet groundwater near this pit is at 142.67-feet and the bottom of the drainage system is at 141.50 feet thus the system is 1.17-feet underwater thus rendering the system useless. This needs to be corrected.
2. A drainage analysis needs to be performed based on the City of Newton's 100-year storm event of 6-inches over a 24-hour period. All runoff from impervious areas need to be infiltrated on site, for this project. No analysis was received by the Engineering Division.
3. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to drafted and submitted for review. Once approved the O&M must be adopted



by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.

4. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all apparentness including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the Homeowners Association.
5. An on site soil evaluation needs to be performed to obtain the seasonal high groundwater elevation, percolation rate in accordance to Title V.

Access:

The existing driveway apron shall be remodeled as new cement concrete sidewalk and the opening shall be re-curbed with vertical granite curbing.

General:

1. As of January 1, 2009, all trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.

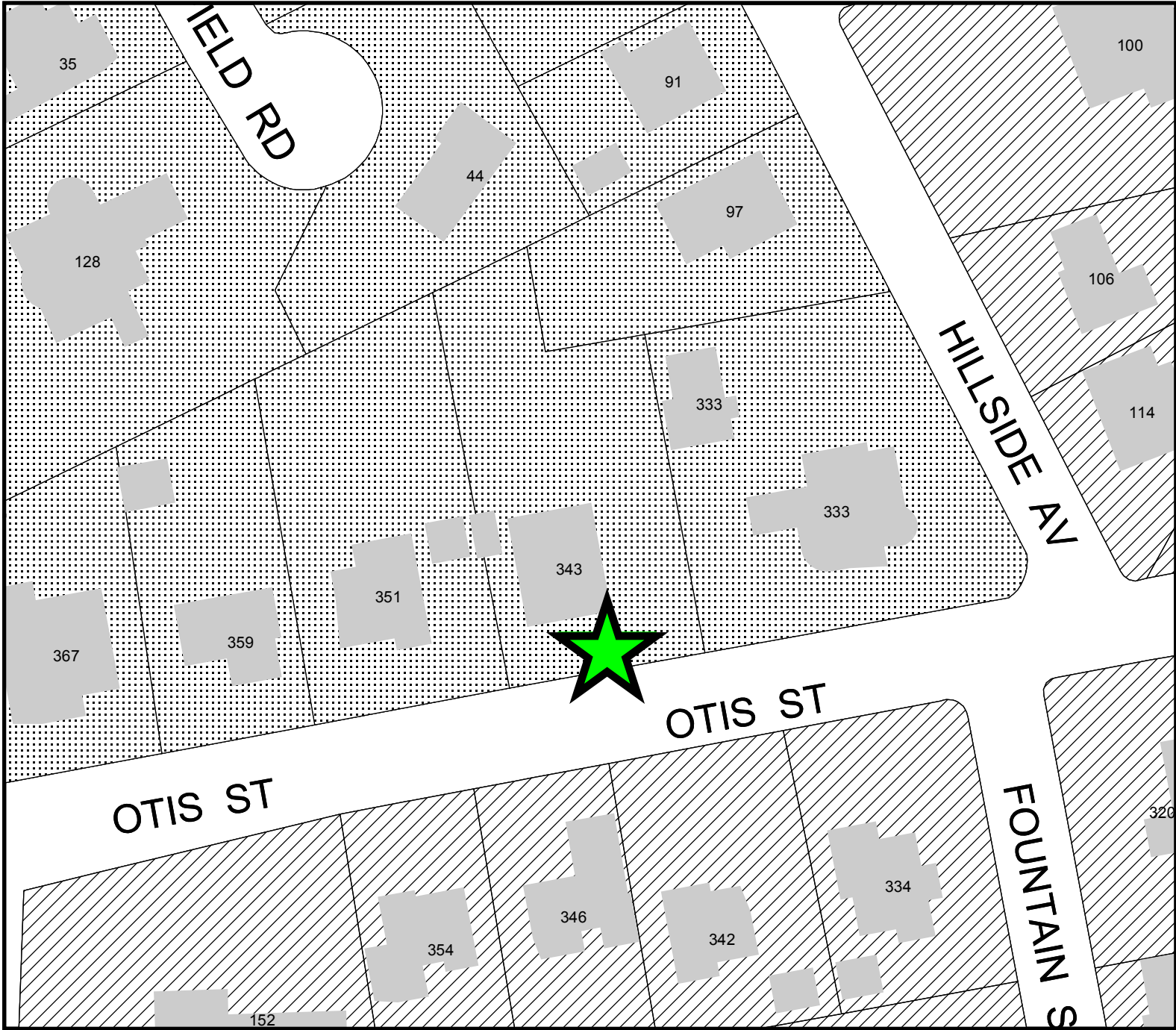
6. Prior to Occupancy permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
7. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

# Zoning Map

343 Otis St.



**Legend**

343 Otis St.

**Zoning**

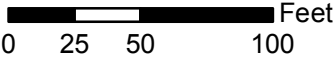
SR1

SR2

Building Outlines

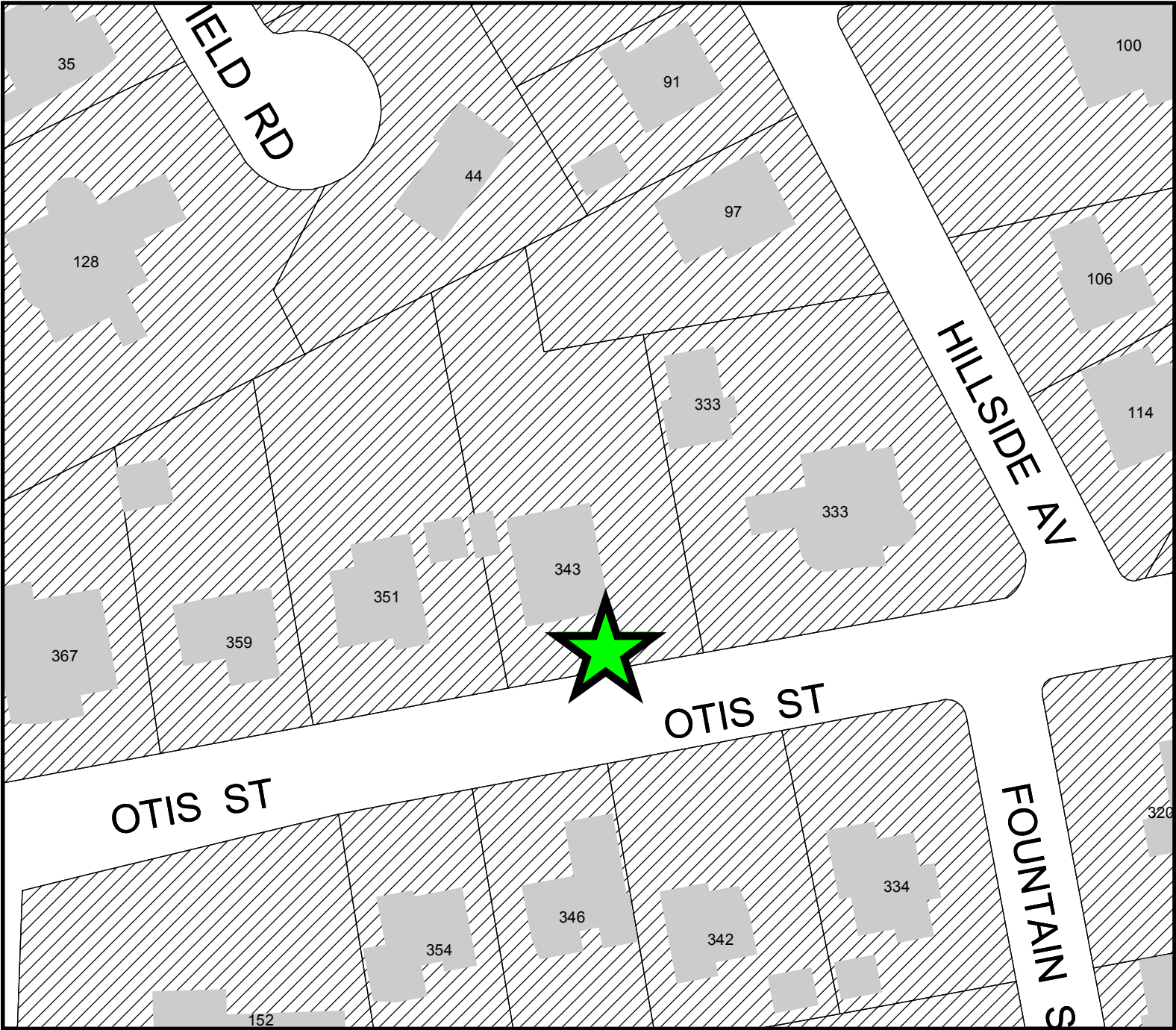


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.



# Land Use Map

343 Otis St.

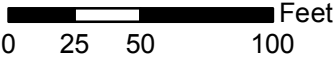


**Legend**

- 343 Otis St.
- Building Outlines
- Single Family Residential



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DRAFT  
#195-11

CITY OF NEWTON  
IN BOARD OF ALDERMEN  
July 18, 2011

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND a NONCONFORMING STRUCTURE with regard to number of stories, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Ted Hess-Mahan:

1. The proposed extension of a nonconforming structure will not be substantially more detrimental to the neighborhood than the existing structure for the following reasons:
  - a. The proposed addition is compliant with building height limitations but is considered three stories due to the fact that more than fifty percent of the basement is above grade.
  - b. The proposed addition is in keeping with the architectural style and materials of the existing residence and has been reviewed by the Newton Historical Commission.
  - c. The property will remain conforming with all other aspects of the zoning requirements.
2. The 2007 *Newton Comprehensive Plan* encourages preservation of existing residential neighborhoods and encourages modestly-sized additions to preserve the character of existing neighborhoods while allowing occupants the flexibility to meet the housing needs of today's families. The proposed additions have been designed in keeping with the style of the house, will not overwhelm the lot as viewed from the street, and will help preserve this structure.

PETITION NUMBER: #195-11

PETITIONER: Vikram Narasimhan and Mary V. Doyle

LOCATION: 343 Otis Street, Section 32, Block 003, Lot 14 containing approximately 18,630 sq. ft. of land

OWNER: Vikram Narasimhan and Mary V. Doyle

ADDRESS OF OWNER: 1350 Commonwealth Avenue, Newton, MA 02465

TO BE USED FOR: Single-family residence

CONSTRUCTION: Wood-frame with wood exterior and masonry foundation

EXPLANATORY NOTES: §30-21(b), for the extension of a nonconforming structure with regard to number of stories; § 30-23, for site plan approval; § 30-24, for approval of special permits

ZONING: Single Residence 2 District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:  

To be inserted later
2. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
  - a. recorded a certified copy of this board order for the approved special permit/site plan with the Registry of Deeds for the Southern District of Middlesex County.
  - b. filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
  - a. filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
  - b. submitted to the Department of Inspectional Services, and the Department of Planning and Development final as-built plans in digital and paper format.